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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

CIVIL AND POLITICAL RIGHTS

PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

Written statement*/ submitted by the Lawyers Committee for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.00-11559

Violations of human rights in Turkey

1. The Lawyers Committee for Human Rights remains concerned about the continuation of human rights violations in Turkey. Nevertheless, the Lawyers Committee has been encouraged by the Ecevit government's repeated commitment to improve Turkey's human rights performance, and by legal reform measures that it has enacted during its year in office. For example, the military judge has been abolished from the panel in State Security Courts, and a new Law on Civil Servants, which replaces the 1913 Law on the Procedures for the Investigation of Civil Servants, should limit delays in prosecuting members of the security forces accused of involvement in torture and other gross violations of human rights. We welcome both of these measures.

2. We also welcome the government's pledge to reform the Penal Code comprehensively which will include the revision of provisions such as Article 312, which has been used to prosecute non-violent expressions of a political or religious nature. Furthermore, we appreciate efforts by high-ranking state representatives, like the President of Turkey and the Minister for Human Rights, who have consulted local human rights groups on different occasions. The Lawyers Committee also welcomes the visit of the Special Rapporteur on Religious Intolerance to Turkey.

3. Nevertheless, severe human rights problems remain in Turkey and essential measures to curtail widespread violations of human rights have not been implemented by the Government. Safeguards against torture for detained criminal suspects are insufficient; human rights advocates, lawyers and intellectuals continue to be prosecuted and imprisoned for the non-violent expression of their views critical of government policy; and, procedures for holding accountable members of the security forces involved in gross violations of human rights, such as torture or extra-judicial killing, are deficient, fostering a climate of impunity in which violations multiply.

Impunity

4. In several ongoing cases in which members of the security forces are facing charges for involvement in torture or extra-judicial killings, there appears to be a pervasive reluctance to hold members of the security forces accountable for violations they may commit. For instance, in the Manisa Case, in which 10 police officers have been accused of torturing a group of 16 young people in the town of Manisa in December 1995, those officers remain on active duty, in a position to intimidate their accusers and witnesses in the case, and to torture other detainees.

5. Although the new Law on Civil Servants eases some of the administrative hurdles to the prosecution of members of the security forces, in practice the implementation of the law remains dependent on a system in which prosecutors are constrained in their ability to launch a prosecution, and in which the security forces can too easily shield themselves from accountability. There is an urgent need for changes in official attitudes about holding members of the security forces accountable for involvement in human rights violations. In addition, laws must be further revised to comply with

Turkey's obligations as a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other binding international instruments.

The persecution of human rights advocates and lawyers

6. The criminal prosecution of human rights advocates for their statements about the human rights situation in Turkey continues; this is facilitated by an atmosphere in which the promotion and protection of human rights is too often seen as a subversive activity. Turkey should undertake to fully implement the "Declaration on Human Rights Defenders" adopted by the General Assembly, which, in Article 1, reiterates the obligation of States to protect and facilitate the work of human rights defenders and affirms that "everyone has the right, individually and in association with others, to promote and strive for the protection of human rights and fundamental freedoms at the national and international level".

7. The cases brought against four human rights activists who are staff and volunteers for the Izmir branch of Human Rights Foundation of Turkey (HRFT) illustrate a systematic persecution of human rights activists working on cases in which members of security forces are accused of gross human rights violations, and which expose the state's involvement in human rights violations. Dr Zeki Uzun, a gynecologist who volunteers his medical services to HRFT is accused of giving support to a terrorist organization for providing medical treatment to two patients who were accused of terrorist offenses. HRFT staff members Gunseli Kaya and Dr. Alp Ayan were detained after attending the funeral of a prisoner killed during serious disturbances in Ankara Prison in September 1999. They were released after their first hearing, which took place on 20 January 2000, but continue to face trial on charges of supporting a proscribed organization. Dr. Veli Lok, a leading figure in the international movement for the treatment of torture, and HRFT's Izmir representative, made remarks during an interview which implied that authorities were targeting activists in Izmir because of the national and international concern over the Manisa case (see above). As a result, Dr. Lok is now facing criminal charges under the press law. The Turkish Government should desist from the prosecution of those who expose State involvement in human rights violations.

8. Although high rank officials, including the President, have met with representatives of human rights organizations, the branch offices of these same organizations are prohibited from operating. For example, the Diyarbakir branch of the Human Rights Association remains closed by administrative order since May 1997 while the case brought against it for alleged violations of the law on associations remains unresolved, The Urfa branch of the Organization of Human Rights and Solidarity for Oppressed People (Mazlum Der) also remains closed by administrative order. The Turkish Government should rescind the closure orders against branches of non-governmental human rights organizations.

9. Lawyers who represent political cases before State Security Courts are also subjected to official pressure, including threats, harassment and even prosecution on apparently fabricated charges. The case against 25 lawyers from Diyarbakir who have represented politically unpopular clients, is the most prominent current example of this problem. Dating from 1993, the charges for allegedly giving support to a terrorist organization against these 25 do not stand up to scrutiny and should be dismissed. Furthermore, many of these 25 lawyers were tortured and forced to sign inculpatory statements during pre-trial detention,

State Security Court procedures

10. In these special courts, the protracted period of pre-trial detention permitted under the law and the consequent delay in the detainee's access to counsel violates international standards. As many prosecutions in State security cases are based on statements taken from the accused during this pre-trial period, access to counsel at this time is particularly important. Incommunicado detention also increases a detainee's vulnerability to torture.

Recommendations

11. The Lawyers Committee for Human Rights calls on the Commission on Human Rights to recommend the abolition of exceptional courts and the unification of the penal courts; pending that, procedures in State Security Courts should be brought into line with prevailing norms in international human rights law which require that all persons arrested or detained "shall have prompt access to a lawyer, and in any case not later than 48 hours from the time of arrest or detention" (see Principle 7 of the UN Basic Principles on the Role of Lawyers).

12. The Lawyers Committee calls on the Commission on Human Rights to urge Turkey to implement fully the recommendations issued by the Commission's Special Rapporteur on torture after his visit to the country in 1998 (UN doc. E/CN.4/1998/38). The Lawyers Committee also urges Turkey to extend an invitation to the Special Rapporteur on the independence of judges and lawyers, who has repeatedly indicated his interest in conducting a mission to Turkey.